

REMARKS

The Applicant appreciates the thorough review of the application by Examiner Parsley. Reconsideration and allowance are requested.

No new matter has been added by the amendments. No new issues are raised by the amendments. Claim 6 has been amended to place it in independent form, incorporating the elements of Claims 1 and 5, as suggested by the examiner. Claims 1, 2, 6, and 7 have been amended to correct informalities and for clarity. The claim rejection made by the Examiner based on 35 U.S.C. 112, second paragraph has been overcome by the amendments to Claims 1, 6, and 7.

The abstract has been reduced to 150 words.

Claims 1-3, 7, 9-10, and 12 are patentable under 35 U.S.C. 103(a) over Wattles et al. (USPN 6,826,989) in view of Fagan (USPN 4,065,911).

"To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success.

Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations." *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (emphasis addcd).

Independent Claim 1

Claim 1 differs from Wattles and Fagan at least in that it teaches the fillet slices are conveyed along the conveyor belt where they are moved to and transferred to a selected package tray of a plurality of package trays disposed opposite the conveyor belt; each package tray on its own transport table, following which the selected package tray with fillet slice on the transport table is weighed, and the result is applied to the calculation unit. No reference teaches or suggests these elements.

Examiner allows that Wattles does not teach these claimed features. Examiner apparently points to a cardboard card as reading on the package tray of the claimed invention, citing to the cardboard dispenser 34 and band conveyer 47 of Fagan. However Fagan does not teach that fillet pieces are transferred to a selected card that is one of a plurality of package trays disposed opposite the conveyer belt, each on its own transport table. Examiner cites to element 40 of Fagan as a transport table where "both the tray and slices are weighed." However, element 40 is a conveyer 40 (Col. 6, line 23) where rejected groups of slices are diverted from the check weighing station 36 to make weight (Col. 3, line 6 - Col. 4, line 9). Fagan also does not teach that the weight of a package tray with fillet slice on the transport table is applied to the calculation unit.

Because neither reference teaches or suggests all elements of Claim 1, Wattles and Fagan, alone or in combination, cannot anticipate or render obvious independent Claim 1. For at least this reason, the rejection of Claim 1 under 35 U.S.C. 103(a) over Wattles in view of Fagan is improper and should be withdrawn.

Dependent Claims 2-3 and 7

Dependent Claims 2-3 and 7 depend from independent and patentable Claim 1 and add further patentable features. For example, Claim 2 adds that the package trays are weighed each time a fillet slice is supplied to it. No reference teaches or suggests this feature. Examiner refers generally to Column 3 of Fagan. However, Fagan does not teach package trays and, even if the card of Fagan was considered a package tray, the card of Fagan is not weighed each time a slice is supplied to it (Col. 3, lines 55-60, "At the check weighing station 36, a constantly driven conveyer receives the grouped, shingled slices... which registers the weight of the group of slices.")

Because neither reference teaches or suggests all elements of Claims 2, 3, and 7, Wattles and Fagan, alone or in combination, cannot anticipate these claims or render them obvious. For at least this reason, the rejection of Claims 2, 3, and 7 under 35 U.S.C. 103(a) over Wattles in view of Fagan is improper and should be withdrawn.

Independent Claim 9

Claim 9 differs from Wattles and Fagan at least in that it teaches that transport tables with package trays are arranged along the conveyor belt, and that each transport table is provided with a weighing cell. As explained above, neither reference teaches package trays, transport tables with package trays, or transport tables provided with weighing cells.

Because neither reference teaches or suggests all elements of Claim 9, Wattles and Fagan, alone or in combination, cannot anticipate this claim or render it obvious.

For at least this reason, the rejection of Claim 9 under 35 U.S.C. 103(a) over Wattles in view of Fagan is improper and should be withdrawn.

Dependent Claims 10 and 12

Dependent Claims 10 and 12 depend from independent and patentable Claim 9 and add further patentable features. For example, Claim 10 teaches that a weighing cell is arranged below the slicer to weigh the fillets before each cutting process. No reference teaches or suggests this feature. Examiner has erred in giving no patentable weight to the limitation of weighing the fillets before each cutting process. This limitation is given patentable weight to the extent that it limits the structure of the invention. This limitation limits the structure of the invention at least in that the slicer, conveyer, and weighing cell must be arranged in a way that allows a weighing cell to weigh the fillets before cutting. Fagan teaches a scale that, by its nature and location, is incapable of weighing fillets before cutting (Figure 1A).

Claim 12 adds that the transport tables have horizontal surfaces, and that they are disposed opposite the conveyor belt in positions where ejector means are arranged on the conveyor belt. No reference teaches or suggests these features. Examiner cites to element 32 of Wattles as teaching transport tables with horizontal surfaces and to elements 28 and 182 as teaching the appropriate positioning.

Element 32 is a sorting conveyer and there is no indication that it has a horizontal surface. Element 28 is a pickup device that is carried by carriages that ride along frame assemblies 182 and takes portioned pieces from the conveyer 22 to take-away conveyers 30 (Col. 3, lines 58-65). Element 32 is a conveyer, it is not opposite the conveyer belt or where ejector

means are arranged. Claim 12 teaches multiple transport tables, each disposed opposite the conveyer belt in positions where ejector means are arranged. Element 32 does not meet these limitations.

Because neither reference teaches or suggests all elements of Claims 10 or 12, Wattles and Fagan, alone or in combination, cannot anticipate these claims or render them obvious. For at least this reason, the rejection of Claims 10 and 12 under 35 U.S.C. 103(a) over Wattles in view of Fagan is improper and should be withdrawn.

Claim 4 is patentable under 35 U.S.C. 103(a) over Wattles et al. (USPN 6,826,989) in view of Fagan (USPN 4,065,911) and further in view of Lindee (USPN 6,320,141).

Dependent Claim 4 depends from independent and patentable Claim 1 and adds further patentable features. Claim 4 adds that the weight determination of the fillet slices is determined in that the entire fillet is weighed before it is cut in the slicer, and that the remaining part of the fillet is weighed after a fillet slice has been cut, following which the weight of the fillet slice is determined as a difference of the weighings of the fillet before it is cut and after it has been cut. No reference teaches or suggests this feature.

Examiner allows that neither Wattles, nor Fagan, teaches this limitation. Examiner therefore relies on the teachings of Lindee to supply this missing element. Examiner cites to Figure 1 and the abstract of Lindee. However, Lindee does not teach the claimed limitation. Applicant allows that the language of the Abstract is unclear: "a slicing mechanism for slicing the product after the product has been weighed on the at least one product input scale, and at least one product output scale capable of weighing the product after slicing by the slicing

mechanism to determine a post-processing weight." What is "the product after slicing?" However, the specification makes the meaning clear. "Product P... is first weighed on the main internal scale 12... from the input scale 12, the product P is introduced into a subtractive processing station, such as a slicing mechanism... the slicing mechanism 14 preferably includes one or more internal scales 16, that weight each unit of sliced product... as it exits the slicer."

(Col. 3, lines 23-33)

Thus, Lindee does not teach weighing a whole fillet and then weighing the fillet each time a slice is cut off it to determine the weight of the slice, as taught by Claim 4. Lindee teaches initially weighing a product on an input scale, then taking it from the scale and putting it into a slicer. As slices are cut off, they are weighed directly as they exit the slicer. In this way the "product after slicing" is weighed.

Because no reference teaches or suggests all elements of Claim 4, Wattles, Fagan, and Lindee, alone or in combination, cannot anticipate this claim or render it obvious. For at least this reason, the rejection of Claim 4 under 35 U.S.C. 103(a) over Wattles in view of Fagan and Lindee is improper and should be withdrawn.

Claim 5 is patentable under 35 U.S.C. 103(a) over Wattles et al. (USPN 6,826,989) in view of Fagan (USPN 4,065,911) and further in view of Vogeley (USPN 5,324,228).

Dependent Claim 5 depends from independent and patentable Claim 1 and adds further patentable features. Claim 5 adds that the camera performs a colour analysis and a geometrical determination of the circumference of the fillet slice. No reference teaches or suggests this feature. Examiner cites to Wattles, Col. 3 as teaching a geometrical determination of the

circumference of a fillet slice. However, nowhere in Wattles can Applicant find a mention of circumference.

Examiner allows that Wattles and Fagan do not teach color analysis. Examiner therefore relies on the teachings of Vogeley to supply this missing element. Examiner cites to the Figures and Col. 3 of Vogeley. However, Vogeley teaches only a brightness/grayscale analysis to locate fat for removal from a finished product, not a color analysis, as in the present invention, as an indication of quality of fillet cuts.

Because no reference teaches or suggests all elements of Claim 5, Wattles, Fagan, and Vogeley, alone or in combination, cannot anticipate this claim or render it obvious.

For at least this reason, the rejection of Claim 5 under 35 U.S.C. 103(a) over Wattles in view of Fagan and Vogeley is improper and should be withdrawn.

Claim 8 is patentable under 35 U.S.C. 103(a) over Wattles et al. (USPN 6,826,989) in view of Fagan (USPN 4,065,911) and further in view of Haagensen (USPN 5,241,365).

Dependent Claim 8 depends from independent and patentable Claim 1 and adds further patentable features. Claim 8 adds that the cutting of a fillet slice in the slicer from the same fillet is controlled on the basis of imaged and calculated characteristic parameters of a preceding fillet slice. No reference teaches or suggests this feature.

Examiner allows that neither Wattles nor Fagan teaches or suggests this element. Examiner therefore relies on the teachings of Haagensen to supply this missing element. Examiner cites to Column 3 of Haagensen as teaching this feature. However, Examiner is incorrect. Haagensen teaches that a fish fillet is illuminated and an image of the surface profile

is recorded (Col. 2, lines 57-68). This profile information is then used in conjunction with knowledge of the locations of occurrences of an undesirable nature in various types of fish, in the form of statistical information for the fish type in question, to control the search of profile information for areas of impurities (Col. 3, lines 7-23). The search can be established by measurements between curve tangents to the fish profile (Col. 3, lines 30-32). This data is used in the processing of the fillet to ensure correct cutting amounts. (Col. 3, lines 35-39)

Haagensen thus has nothing to do with cutting a fillet slice on the basis of characteristic parameters of a preceding fillet slice. Because no reference teaches or suggests all elements of Claim 8, Wattles, Fagan, and Haagensen, alone or in combination, cannot anticipate this claim or render it obvious. For at least this reason, the rejection of Claim 8 under 35 U.S.C. 103(a) over Wattles in view of Fagan and Haagensen is improper and should be withdrawn.

Claim 11 is patentable under 35 U.S.C. 103(a) over Wattles et al. (USPN 6,826,989) in view of Fagan (USPN 4,065,911) and further in view of Hjorth (USPN 5,466,186).

Dependent Claim 11 depends from independent and patentable Claim 9 and adds further patentable features. Claim 11 adds that the conveyor belt is provided with spikes and a vertically extending surface. No reference teaches or suggests this feature. Examiner allows that neither Wattles nor Fagan teaches or suggests this element. Examiner therefore relies on the teachings of Hjorth to supply this missing element.

Examiner cites to elements 222 and 230 as vertically extending conveyer belts provided with spikes. Elements 222 and 230 do not extend vertically, but rather horizontally. Conveyer belt 5 in Figures 1 and 2 of the present Application extend vertically. Therefore, no reference

teaches or suggests all of the elements of Claim 11. Furthermore, there would be no motivation to modify Wattles to have a vertically extending conveyer belt. Examiner does not explain how this would benefit Wattles or how such a modification would be accomplished. For at least the above reasons, the rejection of Claim 11 under 35 U.S.C. 103(a) over Wattles in view of Fagan and Hjorth is improper and should be withdrawn.

CONCLUSION

Reconsideration and allowance are respectfully requested.

Respectfully,



James C. Wray, Reg. No. 22,693
Clifford D. Hyra, Reg. No. 60,086
1493 Chain Bridge Road, Suite 300
McLean, Virginia 22101
Tel: (703) 442-4800
Fax: (703) 448-7397

Date: August 27, 2007